

RULE 69 PROCEEDINGS¹

Under Rule 69, Colorado Rules of Civil Procedure, judgment debtors will appear before the magistrate judge only upon subpoena.

An attorney seeking the appearance of a judgment debtor must contact the secretary of the appropriate magistrate judge. The secretary will set the place, date and time and you will then enter that information on the subpoena.

It is the duty of the attorney for the judgment creditor to serve the subpoena by an appropriate person other than the United States Marshal, except when the United States of America is the judgment creditor. Service should be made not later than forty-eight (48) hours prior to the hearing and it is further required that the return of service be filed with the magistrate judge's secretary not later than twenty-four (24) hours prior to the hearing in order for a magistrate judge to be available for the Rule 69 proceeding.

As to interrogatories and depositions, it is not necessary in Federal Court to obtain an order of court to permit such procedure. Rule 69 of the FRCP provides in subsection (a): "...the judgment creditor...may obtain discovery from any person, including the judgment debtor, in the manner provided in these rules..." Therefore, interrogatories and depositions are taken in accordance with Rules 26 through 37 of the FRCP.

¹ The court encourages the use of interrogatories and depositions in lieu of in-court hearings for discovery from judgment debtors. Such proceedings by counsel for judgment creditors will save the costs of mileage and expenses on subpoenas.